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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,745	02/14/2002	Padmaja Sarojini	J6738(C)	9480

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UNILEVER  
PATENT DEPARTMENT  
45 RIVER ROAD  
EDGEWATER, NJ 07020

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/075,745

Applicant(s)

SAROJINI ET AL.

Examiner

Eisa B Elhilo

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 8 & 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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Claims 1-18 are pending in this application.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Cotteret et al. (US 5,580,357).

Cotteret (US' 357) teaches a method for dyeing hair. The method comprises the step of applying to the hair a dyeing composition comprising a mixture of oxidative hair dye precursors (see col. 2, lines 15-35) and allowing the mixture to remain in hair for a period of 30 minutes which within the claimed period of time as claimed in claim 1 (see col. 5, Example 1). The method further comprises the step of contacting hair with an oxidizing agent in alkaline pH and allowing the mixture to remain in hair for a period of 30 minutes with within the claimed period of time as claimed in claim 2 (see col. 2, lines 36-37 and col. 5, Example 1), the step of mixing oxidative dye precursors with oxidizing agent at the time of applying to the hair in acidic medium as claimed in claim 3 (see col. 8, claim 18) and the step of contacting the hair with a basifying composition that remains in hair for 30 minutes as claimed in claims 4 and 5 (see col. 3, lines 24-31 and col. 8, claim 17). Cotteret teaches all the limitations of the instant claims. Hence, Cotteret anticipates the claims.

***Claim Rejections - 35 USC § 103***

2 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotteret et al. (US 5,580,357).

Cotteret (US' 357) teaches a method for dyeing hair. The method comprises the step of applying to the hair a dyeing composition comprising a mixture of oxidative hair dye precursors such as 2-methyl-para-aminophenol in the amount of 0.1 to 2% and o-aminophenol in the amount 0.1 to 2.0 % as a second oxidation hair dye precursor, 6% of hydrogen peroxide as an oxidative compound (oxidizing agent), aqueous ammonia containing 20% of ammonia as a basifying compound and water as an aqueous carrier as claimed in claims 7-15 (see col. 1, lines 64-67, col. 2, line 12, col. 3, lines 8-13 and col. 6, lines 8-14) and the step of developing a color in an acidic or alkaline medium by means of applying an oxidizing agent as a second composition applied simultaneously or sequentially (see col. 8, claim 17). Cotteret further teaches a device or dyeing kit containing at least two compartments, a first compartment of which contains the oxidation dye precursors and the second one contains the oxidizing agent in a suitable dyeing medium as claimed in claim 17 (see col. 8, claim 19).

The instant claims differ from the reference by reciting optimal amounts of the dyeing ingredients in the composition that used by the claimed method.

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However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply such a method by optimizing the amounts of the dyeing ingredients in the composition so as to get the maximum effective amount because the reference teaches dyeing ingredients in the amounts that overlapped with the claimed ranges, and, thus, a person of ordinary skill in the art would expect such a method to have similar results to those claimed, absent unexpected results.

With respect to claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply such a method by contacting the hair with an oxidizing agent for specific period and then contacting the hair with a basifying composition because the reference teaches different ways of applying the oxidizing composition to the hair wherein the composition applied simultaneously or sequentially (see col. 8, claim 17), and, thus, a person of the ordinary skill in the art would expect such a method to have similar results to those claimed, absent unexpected results.

With respect to claim 16, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply such a method to provide a hair longer lasting color because the reference teaches a method that comprises applying to the hair compositions that comprise dyeing ingredients similar to those claimed, and, thus, a person of the ordinary skill in the art would expect such a method would provided similar results to those claimed, absent, unexpected results.

With respect to claim 17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make a written instruction for application of the colorant composition to the hair because the reference teaches a method comprising the steps of

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applying to the hair a colorant composition for a period of time from 5 to 40 minutes (see col. 8, claim 18), and, thus, a person of the ordinary skill in the art would expect these steps as an instruction for application and would expect such a kit to have similar instructions to those claimed, absent unexpected results.

***Allowable Subject Matter***

3 Claim 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record does not teach or disclose a method for treating hair wherein the rate of oxidative of hair dye precursors/rate of diffusion of hair dye precursors is equal or less than one.

***Conclusion***

The remaining references listed on form 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art reference relied upon in the rejection above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

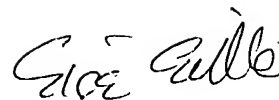
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-0661. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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A handwritten signature in black ink, appearing to read "Eisa Elhilo".

Eisa Elhilo  
Patent Examiner  
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October 14, 2003.